

Appendix D

Regulatory Context

**YELLOW FALLS HYDROELECTRIC
PROJECT
REGULATORY CONTEXT**

APPENDIX D

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Prepared for:

**Yellow Falls Power LP
34 Harvard Road
Guelph, ON N1G 4V8**

Prepared by:

**Stantec Consulting Ltd.
70 Southgate, Suite 1
Guelph ON N1G 4P5**

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1.0 Federal Legislation and Regulations

1.1 CANADA WILDLIFE ACT, 1985

The *Canada Wildlife Act* provides the authority for the acquisition of lands by the federal Minister of the Environment for the purposes of wildlife research, conservation, and interpretation. This Act also provides for the establishment of protected marine areas. The Minister may enter into an agreement with any province/territory for wildlife research, conservation, and interpretation, including measures to protect any wildlife in danger of extinction. National Wildlife Areas are created and managed pursuant to regulations made under this Act. Designation as a National Wildlife Area helps ensure that lands of national importance are protected.

1.2 CANADIAN ENVIRONMENTAL ASSESSMENT ACT, 1992

The intention of the *Canadian Environmental Assessment Act* (“CEA Act”) is to promote sustainable development by conserving and enhancing environmental quality while encouraging and promoting economic development by integrating environmental factors into planning and decision-making.

The Responsible Authority (or Authorities) determines if the CEA Act applies to a project and follows a four-step review process for environmental studies conducted under its jurisdiction. In most cases, coordination between various federal departments and assistance in determining application of the CEA Act is provided by the Canadian Environmental Assessment Agency (“CEA Agency”):

Step 1: Does the CEA Act Apply?

The CEA Act requires federal authorities to undertake environmental assessments of projects when they are proponents, or when they are proposing to take one of the following actions that would enable a project to proceed, in whole or in part, by:

- Providing some form of financial assistance to the project
- Having the administration of federal lands and selling, leasing, or otherwise disposing of those lands or any interest in those lands
- Issuing a permit, license, authorization, or other regulatory approval listed in the Law List Regulations.

A number of factors will be responsible for triggering the CEA Act. This includes the provision of federal funding under the Government of Canada’s ecoENERGY Renewable Energy Initiative, approvals required from the Department of Fisheries and Oceans (“DFO”), and permits from Transport Canada (“TC”). For example, NRCAN would be designated a Responsible Authority (“RA”) under the CEA Act as administrators of the ecoENERGY initiative if federal funding is

being provided. Similarly, DFO and TC would also be designated as RAs since a permit or approval is required for Project construction.

Once it is determined that the CEAA is applicable, the next step is to identify the type of study required.

Step 2: Identification of Study Type

There are two general types of studies identified under CEAA: *Self-Directed* and *Public Review*. Approximately 95% of self-directed EAs conducted under CEAA are screenings. In a screening study, the RA, in conjunction with other Federal Authorities ("FA"), determines the scope of the study, manages the EA process, and ensures the proponent prepares an appropriate screening study. Screening studies are typically undertaken for smaller-scale projects with predictable and mitigable environmental effects. The Project has been assessed as a screening study and requires the preparation of an Environmental Impact Statement ("EIS").

Step 3: RA Determination

The RA's determination concerns the likelihood of significant adverse environmental effects. The three determination options available to the RA are:

- The project is not likely to cause significant adverse environmental effects. Following this determination, the RA may exercise any power or perform any duty or function that would permit the project to be carried out in whole or in part.
- The project is likely to cause significant adverse environmental effects that cannot be justified. Following this determination, the RA may not exercise any power or perform any duty or function that would permit the project to be carried out in whole or in part.
- It is uncertain whether the project is likely to cause significant adverse environmental effects, or the project is likely to cause significant adverse environmental effects that may be justifiable or public concerns warrant referral to a mediator or review panel. Following any of these determinations, the RA would refer the project to the federal Minister of the Environment for a referral to a mediator or review panel.

Step 4: Review and Determination

The decision options for an RA following a review panel or mediation are as follows; the project is:

- Not likely to cause significant adverse environmental effects or the project is likely to cause significant adverse environmental effects that can be justified in the circumstances. Following this determination, the RA may exercise any power or perform any duty or function that would permit the project to be carried out in whole or in part, or
- Likely to cause significant adverse environmental effects that cannot be justified. Following this determination, the RA may not exercise any power or perform any duty or function that would permit the project to be carried out in whole or in part.

1.3 CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999

The goal of the *Canadian Environmental Protection Act* (“CEPA”) is to contribute to sustainable development through pollution prevention and to protect the environment, human life, and health from the risks associated with toxic substances. CEPA also recognizes the contribution of pollution prevention and the management and control of toxic substances and hazardous waste to reducing threats to Canada's ecosystems and biological diversity. The Act acknowledges the need to control and manage pollutants and wastes deemed harmful to human health or the environment. The Act also recognizes the necessity of virtually eliminating persistent substances that remain in the environment for extended periods of time before breaking down and substances that bioaccumulate within living organisms. Health Canada works in partnership with Environment Canada (“EC”) to assess potentially toxic substances and to develop regulations to control toxic substances.

1.4 FISHERIES ACT, 1985

The federal Minister of Fisheries and Oceans has the legislative responsibility for the administration and enforcement of the *Fisheries Act*. The Minister reports annually to Parliament on the administration and enforcement of fish habitat protection and pollution prevention provisions of the *Fisheries Act*. However, in 1978, the Prime Minister assigned to the Minister of the Environment responsibility for administration and enforcement of subsection 36(3) [formerly subsection 33(2)] of the *Fisheries Act*, which deals with the deposit of deleterious substances into water frequented by fish. Then, in 1985, in order to help ensure coordination, a Memorandum of Understanding between the DFO and EC was signed, outlining the responsibilities of both departments for the administration and enforcement of the pollution prevention provisions of the *Fisheries Act*.

A key component of the Fisheries Act is section 35(1) which states “No person shall carry out any work or undertaking that results in the harmful alteration, disruption, or destruction of fish habitat.” Section 35(1) allows the DFO to implement policies which prevent loss of or harm to fish habitat through development.

The Project must provide assurance to the DFO that no harmful alteration, disruption, or destruction (“HADD”) of fish habitat will occur during the construction and operation of the Project. If HADD may occur, effects can be mitigated or compensated for according to DFO’s No Net Loss of the productive capacity of habitats (“NNL”) principle. However, construction cannot begin until the proponent applies for and receives HADD authorization from the DFO.

1.5 MIGRATORY BIRDS CONVENTION ACT, 1994

The *Migratory Bird Convention Act* exists to protect and conserve migratory birds and their nests. The Act implements the 1916 treaty between Canada and the United States, in which the two countries agree to adopt a coordinated system to protect migratory birds from indiscriminate harvesting and destruction. The Parkville Protocol, an amendment to the

Convention, came into force in October 1999, and enables effective actions to be taken to improve the conservation of migratory birds. The federal Minister of the Environment has the legislative responsibility for the administration and enforcement of the act.

1.6 NAVIGABLE WATERS PROTECTION ACT, 1985

The *Navigable Waters Protection Act* ensures that the public's common law right to navigate waterbodies is balanced with the need to cross waterbodies with bridges, dams, transmission facilities, and dump or excavate material, or carry out activities that may interfere with navigation.

If a proponent may substantially interfere with navigation, an application for approval must be submitted to Transport Canada's Navigable Waters Protection Program. The approval may set out additional mitigation and protection measures necessary to reduce or eliminate effects on navigation.

The *Navigable Waters Protection Act* can trigger the CEAA in the event that an approval is required from Transport Canada.

1.7 SPECIES AT RISK ACT, 2002

The *Species at Risk Act* was designed to meet one of Canada's key commitments under the International Convention on Biological Diversity, and is under the jurisdiction of the federal Minister of the Environment. The goal of this Act is to prevent endangered or threatened wildlife from becoming extinct or lost from the wild and to help in the recovery of these species. It is also intended to manage species of special concern and to prevent them from becoming endangered or threatened. The *Species at Risk Act* sets out the process for determining recovery and protection actions by providing a framework for actions across Canada to ensure the survival of wildlife species and the protection of natural heritage. It also identifies ways governments, organizations, and individuals can work together, and establishes penalties for failure to obey the law.

Stewardship is an essential part of the cooperative process entrenched in this Act. It brings together landowners, conservationists, governments, and other partners to protect species and habitat. Under the *Species at Risk Act*, stewardship is the first response to protecting the habitats of at-risk species.

2.0 Provincial Legislation and Regulations

2.1 AGGREGATE RESOURCES ACT, R.S.O. 1990 C.A.8

The *Aggregate Resources Act* has four main purposes:

- To provide for the management of the aggregate resources of Ontario
- To control and regulate aggregate operations on Crown and private lands
- To require the rehabilitation of land from which aggregate has been excavated
- To minimize adverse impact on the environment in respect of aggregate operations.

The *Act* accomplishes these purposes by establishing the Aggregate Resources Trust to provide for rehabilitation of aggregate pits and quarries, requiring mandatory acquisition of licenses to extract aggregates on private land, and requiring mandatory acquisition of permits for extraction of aggregates on crown land (administered by the MNR). The *Act* also requires rehabilitation of aggregate sites and provides penalties for failure to obtain a license or permit, and contravention of a licence or permit.

2.2 CROWN FOREST SUSTAINABILITY ACT, S.O. 1994 C.25

The purpose of the *Crown Forest Sustainability Act* is to provide for the long-term health of Crown forests, including management to meet social, economic and environmental needs of present and future generations. Implementation of the *Act* is guided by four manuals: a Forest Management Planning Manual, a Forest Information Manual, a Forest Operations and Silviculture Manual, and a Scaling Manual.

The *Act* requires forest companies to prepare Forest Management Plans (“FMPs”) for five-year periods, along with one-year work schedules. An FMP must be approved by the Minister of Natural Resources.

The *Act* also requires forestry companies planning to operate over a number of years to acquire a Sustainable Forest License (“SFL”), which grants rights to cut timber in a specified area. The SFL specifies planning, renewal, and maintenance activities that must be undertaken on a continuous basis. Over the short term, the *Act* requires companies planning to remove timber to obtain a Forest Resource License (“FRL”), which may also require a company to enter into agreements with the MNR for renewal and maintenance activities.

Additionally, the *Act* provides for establishment of two trust funds to provide for forestry expenses that occur in Crown forests.

2.3 ENERGY COMPETITION ACT, S.O. 1998, C.15

The *Energy Competition Act* (“ECA”) is aimed at establishing a deregulated market for the supply of electricity and continuing the deregulation of the natural gas supply market. The ultimate goal was the creation of a competitive market in both industries. To achieve this in the electricity sector, the former Ontario Hydro monopoly was replaced by several business entities including two distinct commercial companies, Ontario Power Generation (“OPG”) and Hydro One Networks Inc. (“Hydro One”), along with one Crown Corporation, the Independent Electricity System Operator (“IESO”). All three entities operate independently of one another.

OPG is responsible for the generation of electricity, while Hydro One owns and maintains transmission and distribution wires. Under the ECA, the Ontario Energy Board (“OEB”) has varying degrees of regulatory authority over all three corporations as well as the province’s municipal electric utilities, representing a significantly expanded mandate for the OEB.

The OEB has some joint duties with the IESO, largely because the latter can itself be a source of anticompetitive behaviour unless accountable and transparent systems are fully in place and enforced. The strengthened OEB is also mandated to regulate investments in the expansion of the transmission grid. The OEB works with the IESO to ensure that adequate transmission capacity is developed, both to maintain reliability and to promote the growth of competition. The OEB now regulates the province’s local wire business and all local distribution companies, and is responsible for ensuring that the distribution companies fulfill their obligations to connect and serve their customers.

2.3.1 System Impact and Customer Impact Assessments

The Independent Electricity System Operator (“IESO”) is a non-profit, regulated corporation established by the ECA. It is independent of industry and is managed in the interest of all parties involved in the power industry, including consumers. The IESO controls the safe and reliable operation of most of the electrical power system in Ontario, balancing the demand for, and supply of, industrial and residential electricity. In addition, the IESO is leading the drive to a competitive, deregulated electricity marketplace in Ontario, under the direction of the Ministry of Energy.

The IESO requires proponents of new or renewed generation facilities to undertake a Connection Assessment and Approval (“CAA”) before the facility can connect to the provincial transmission system. Part of the approval process includes submission of a System Impact Assessment, which determines the effect of the proposed project on the reliability and capacity of the provincial transmission system.

Hydro One Networks Inc. requires the transmitter (e.g., YFP) to carry out a Customer Impact Assessment (“CIA”) to determine the impact of the proposed Project on the supply at the transmitter’s interconnection point for all customers in the vicinity of the proposed project. Hydro One, as the operator of Ontario’s largest transmission and distribution network to which

YFP is connecting its Project, performs (produces) the Customer Impact Assessment and determines if the project meets the necessary requirements to connect to the transmission system.

2.4 HERITAGE ACT, R.S.O. 1990 C.0.18

The purpose of the Ontario *Heritage Act* is to give municipalities and the provincial government powers to preserve the heritage of Ontario. The primary focus of this Act is the protection of heritage buildings and archaeological sites. The legislation provides mandates for the Ontario Heritage Foundation, a Crown agency, and the Conservation Review Board, a tribunal that hears objections to municipal and provincial decisions under the Act. The Ministry of Culture recently updated the Ontario *Heritage Act* as part of the *Government Efficiency Act*, which received Royal Assent on November 26, 2002.

2.5 LAKES AND RIVERS IMPROVEMENT ACT, R.S.O. 1990 C.L. 3

The Lakes and Rivers Improvement Act (“LRIA”) is a key piece of legislation that enables the MNR to approve the location of dams, approve plans for waterpower facilities, and manage water levels and flows.

In 1977, the MNR established *Guidelines and Criteria for Approvals under the Lakes and Rivers Improvement Act*. While the 1977 guidelines remain the official document, the MNR encourages proponents of proposed waterpower developments to implement the 2004 draft *Lakes and Rivers Improvement Act Technical Guidelines – Criteria and Standards for Approval*.

The *Technical Guidelines* require a two-stage approval process. Location approval is the first stage, and requires:

- An EA for the zone of impact of the dam
- A description of the existing ecosystem
- Identification and consultation with riparian owners and other water users

The second stage is plans and specifications approval, where the proponent must submit detailed design specifications for the proposed project. Most requirements of location approval and some requirements of plan approval can be included in EA reporting to shorten the MNR review process, specifically hydrologic information, effects to the environment, public safety considerations, and dam removal and decommissioning considerations. The MNR requires verification of successful completion of the provincial EA process before approval under the LRIA can be issued.

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2.5.1 Waterpower Program Guidelines

Since the Yellow Falls Project was initiated in 1986, the MNR has confirmed that the Yellow Falls Hydroelectric Project will be reviewed and assessed under the 1990 Waterpower Program Guidelines ("WPPG").

At the start of the project, a proponent must submit an Application for Site Release to the MNR. The Application for Site Release, if accepted, secures a waterpower site for potential future development. Following acceptance of the Application for Site Release, the proponent must submit an Application Information Requirements ("AIR") package. Once the AIR package is accepted, the MNR requests a Project Information Package ("PIP"), which requires effects assessment. The MNR have previously accepted the Application for Site Release (1987) and AIR package (2002) for the Project. The EA Report for the Project represents the PIP component of the waterpower application process.

The proponent will be required to obtain work permits for construction activities associated with the Project. The work permits will be evaluated based upon the information contained within the PIP, as well as technical drawings and site-specific environmental protection measures associated with construction.

The MNR and proponent determine the terms and conditions of the Waterpower Lease Agreement ("WPLA") during the process defined in the WPPG in order to create a "requisition to issue a lease." Subsequently, the WPLA is prepared and signed before the facility commissioning stage.

Finally, monitoring to assess the potential environmental effects of the project is to be undertaken by the District, Regional Engineer, the proponent, and/or an independent third party as negotiated in the PIP. Monitoring costs may be the responsibility of the proponent as negotiated during the WPPG process.

2.5.2 Water Management Planning Guidelines for Waterpower

In addition to location and plans approvals, the MNR has developed Water Management Planning Guidelines for Waterpower ("WMPG") under the *Lakes and Rivers Improvement Act*, which requires proponents of existing or proposed facilities in a watershed to prepare a Water Management Plan ("WMP"). Through the WMPG, an Operational Plan is developed for each facility, which becomes the enforceable portion of the WMP.

The WMPG have the following principles which guide preparation of WMPs

- Maximum net benefit to society
- Riverine ecosystem sustainability
- Planning based on best available information

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- Thorough assessment of options
- Adaptive management
- Timely implementation of study findings
- Aboriginal and treaty rights
- Public participation

The Yellow Falls Hydroelectric Project will require an amendment to the existing Mattagami River Water Management Plan, approved in 2006, necessitating development of Operational Plans for the proposed facility.

The MNR recently (May 21, 2007) issued a procedure directive that advocates development of a “single, efficient and coordinated process” so that MNR approvals and EA objectives can be met at the same time.

2.6 ONTARIO ENERGY BOARD ACT, S.O. 1998, C.15

The OEB, a regulatory agency of the Ontario Government, is an independent, quasi-judicial tribunal created originally by the *Ontario Energy Board Act* and now empowered under the *Energy Competition Act, 1998*. As part of its mandate the OEB licenses all market participants in the electricity sector, including the IESO, generators, transmitters, distributors, wholesalers, and electricity retailers. Under Section 57 of the OEB Act a generator's license is required from the OEB in order to generate or purchase electricity for on-site use or for sale to an IESO-administered market in Ontario. Applications are reviewed by the OEB and decisions are passed through the Energy Licensing and Application Branch.

Under Sections 80 and 81 of the OEB Act, no transmitter or distributor may construct a generation facility, transmission or distribution system in Ontario unless it has first given notice of its proposal to do so to the Board. The Board must also grant a Leave to Construct under Section 92 of the OEB Act prior to the construction, expansion or reinforcement of an electricity transmission line or an electricity distribution line or making an interconnection in the provincial grid.

2.7 ONTARIO ENVIRONMENTAL ASSESSMENT ACT, R.S.O. 1990, C.E.18

The Ontario Environmental Assessment Act (“OEAA”) and associated regulations determine which projects must complete an EA in Ontario. The primary legislative instrument under the OEAA that deals with EA requirements for electricity projects is O. Reg 116/01.

2.7.1 Ontario Regulation 116/01 – Electricity Projects

The *Electric Projects Regulation* (“O. Reg. 116/01”) has adapted the OEAA to ensure that the environmental effects of new private and public sector electricity projects are assessed. O. Reg. 116/01 and the associated “Guide to Environmental Assessment Requirements for Electricity Projects (EA Guide)” set out the Environmental Screening Process (“ESP”) as a proponent driven, self-assessment procedure. The proponent is responsible for determining if the Project falls within the ESP, and when to formally commence the process. The proponent is also responsible for determining the time required to adequately conduct the ESP and when to publicly release Project documentation and when to consult with aboriginal communities, agencies, or stakeholders.

New electricity projects are classified into one of three categories under O. Reg. 116/01:

- Category A: projects that are expected to have minimal potential environmental effects and do not require approval under the Ontario Environmental Assessment Act.
- Category B: projects that have potential environmental effects that can probably be mitigated but require approval through the ESP.
- Category C: projects that have known potentially significant environmental effects and require the preparation of an individual environmental assessment under the Ontario Environmental Assessment Act.

All projects subject to the ESP require proponents to apply a series of screening criteria to identify the potential environmental effects of the project. The proponent may choose to carry out an Environmental Review if potentially significant environmental effects or public issues arise that require more detailed study and assessment.

Based on the MOE’s categorization of electricity projects, hydroelectric facilities under 200 megawatts (“MW”) in generating capacity are classified as Category B projects and are subject to approval under the ESP. Stakeholder consultation, coupled with the results of the screening criteria checklist, has determined that detailed studies and assessment need to be carried out for this Project and necessitate an environmental review. This EA has been prepared to address the need for greater scrutiny of potential environmental effects.

2.7.2 Resource Stewardship Class EA

Typically, the requirements of MNR’s Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects (“MNR Class EA”) must be satisfied before issuance of a work permit or land use permit. The MNR Class EA ensures that the MNR, its partners, and disposition applicants meet the requirements of the EAA by considering the potential environmental effects of proposed projects. Provided that the process set out in the MNR Class EA is followed, projects and activities included in the Class EA, including the issuance of a work permit, do not require formal review and approval under the EAA.

However, section 2.6.2 of the MNR Class EA provides that projects subject to the ESP are not subject to the MNR screening criteria. Proponents are still required to fulfill their EAA requirements under the ESP before applying to MNR for dispositions such as work permits.

2.8 PLANNING ACT, R.S.O. 1990 C.P.13

The *Planning Act* (1997) regulates land-use planning and is administered by the Ministry of Municipal Affairs and Housing and municipal governments. The Provincial Policy Statement (“PPS”), implemented under the *Planning Act* does not supersede or take precedence over other provincial legislative requirements. However, where the *Planning Act* governs projects, proponents must demonstrate that there will be no negative effects on the natural features or ecological functions for identified environmental features.

2.8.1 Provincial Policy Statement, 2005

The 2005 Provincial Policy Statement (“PPS”) provides policy direction on matters of provincial interest related to land-use planning and development. As a key part of Ontario’s policy-led planning system, the PPS sets the policy foundation for regulating the development and use of land. The PPS is issued under the authority of Section 3 of the Planning Act and requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act.

The PPS (2005) contains several key sections related to renewable energy facilities (including hydroelectric generation):

- **Section 1.1.5 Rural Areas in Territory without Municipal Organization:** The focus of development activity shall be activities and land uses related to the management or use of resources and resource-based recreational activities.
- **Section 1.5.1 Public Spaces, Parks, and Open Spaces:** Healthy, active communities should be promoted by:
 - > providing for a full range and equitable distribution of publicly-accessible built and natural settings for recreation, including facilities, parklands, open space areas, trails and, where practical, water-based resources
 - > providing opportunities for public access to shorelines
 - > considering the impacts of planning decisions on provincial parks, conservation reserves and conservation areas
- **Section 1.7.1 Long-Term Economic Prosperity:** should be supported by...providing opportunities for increased energy generation, supply, and conservation, including alternative energy systems and renewable energy systems
- **Section 1.8 Energy and Air Quality:** planning authorities shall support energy efficiency and improved air quality through land-use and development patterns which...promote design and orientation which maximize the use of alternative or renewable energy, such as solar and wind energy...(1.8.1 e); and increased energy supply should be promoted

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by providing opportunities for energy generation facilities to accommodate current and projected needs, and the use of renewable energy systems and alternative energy systems...(1.8.2).

- **Section 2.1 Natural Heritage:** Natural features and areas shall be protected for the long term.
 - > The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.
 - > Development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements.
- **Section 2.2 Water:** Planning authorities shall protect, improve or restore the quality and quantity of water by:
 - > Using the watershed as the ecologically meaningful scale for planning
 - > Minimizing potential negative impacts, including cross-jurisdictional and cross-watershed impacts
 - > Identifying surface water features, ground water features, hydrologic functions and natural heritage features and areas which are necessary for the ecological and hydrological integrity of the watershed;
 - > Implementing necessary restrictions on development and site alteration to protect all municipal drinking water supplies and designated vulnerable areas; and protect, improve or restore vulnerable surface and ground water, sensitive surface water features and sensitive ground water features, and their hydrologic functions
 - > Maintaining linkages and related functions among surface water features, ground water features, hydrologic functions and natural heritage features and areas
 - > Promoting efficient and sustainable use of water resources, including practices for water conservation and sustaining water quality
 - > Ensuring stormwater management practices minimize stormwater volumes and contaminant loads, and maintain or increase the extent of vegetative and pervious surfaces.
- **2.6 Cultural Heritage and Archaeology:** Significant built heritage resources and significant cultural heritage landscapes shall be conserved.
 - > Development and site alteration shall only be permitted on lands containing archaeological resources or areas of archaeological potential if the significant archaeological resources have been conserved by removal and documentation, or by preservation on site. Where significant archaeological resources must be preserved on site, only development and site alteration which maintain the heritage integrity of the site may be permitted.

2.9 PUBLIC LANDS ACT, R.S.O. 1990 C.P.43

The *Public Lands Act* makes the Minister of Natural Resources responsible for the management, sale, and disposition of crown lands.

The MNR will require YFP to obtain a Crown Lease as an interim form of tenure. A Land Use Permit (“LUP”) issued under the Public Lands Act during construction of the Project may be issued for a short term while survey requirements are met. Additional permits may be required for transmission lines, access roads, construction staging areas, and work camps. Prior commissioning, a Waterpower Lease Agreement (“WPLA”) will be issued.